

# **BASIC PRINCIPLES OF THE LAW OF WAR**

**Entry-Level Training Prepared by:**



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# **TRAINING OBJECTIVES**

- **Define the Law of War (LOW)**
  - **Legal Basis**
  - **Purpose**
  - **Your Responsibilities**
- **Know the 9 Basic Principles of the LOW**
- **Understand Reporting Requirements of Marine Corps LOW Program**
- **Define the Standing Rules of Engagement**

# **LOW DEFINED**

- **That part of international law that regulates the conduct of armed hostilities**
- **It is often called the “Law of Armed Conflict” or “LOAC”**
- **Encompasses all international law for the conduct of hostilities binding on the United States and its Individual Citizens**
- **Includes treaties and international agreements to which the United States is a party, and applicable customary international law**

Source: DoD Directive 2311.01E, DoD Law of War Program,  
May 9, 2006

# **LOW REFERENCES**

- **Hague Convention IV of 1907**
- **Geneva Conventions of 1949**
- **DoDD 2311.01E (DoD LOW Program)**
- **SECNAVINST 3301.1C (DoN LOW Program)**
- **MCO 3300.4A (Marine Corps LOW Program)**
- **CJCSI 3121.01B (Standing Rules of Engagement (SROE)/Standing Rules for the Use of Force(SRUF))**

# **PURPOSE OF THE LOW**

- **The LOW is comprised of those basic legal standards of battlefield behavior that:**
  - **Assists commanders and Marines in ensuring the disciplined, lawful, and efficient application of military force IOT accomplish the mission**
  - **Ensures humane treatment for persons who fall into the hands of the enemy, particularly prisoners of war, military wounded, sick, and shipwrecked and civilians**
  - **Protects innocent civilians from unnecessary suffering and limits damage to civilian property**
  - **Encourages the enemy to surrender and observe the LOW**
  - **Facilitates the restoration the peace**
  - **Preserves the professionalism, honor, and humanity of Marines**
  - **Maintains domestic and international support for military operations**

# **CORE PRINCIPLES OF LOW**

- **Military Necessity**
- **Unnecessary Suffering**
- **Discrimination/Distinction**
- **Proportionality**

# **MILITARY NECESSITY**

***“That principle which justifies those measures not forbidden by international law which are indispensable for securing the complete submission of the enemy as soon as possible.”***

(ARMY Field Manual 27-10 Law of Land Warfare)

# **DISTINCTION**

- **Requires that commander separate combatant forces from civilian populace as much as possible (no human shields)**
- **Required to direct attacks at combatants and military objectives, and not civilians or civilian property**

# **PROPORTIONALITY**

- **Whether military actions may be expected to cause incidental loss of civilian life, injury to civilians, and/or collateral damage to civilian objects, which would be *excessive* in relation to the concrete and direct military advantage anticipated by those actions**

# **UNNECESSARY SUFFERING**

- **Prohibits use of arms calculated to cause unnecessary suffering - examines the weapon design itself**
- **Prohibits use of otherwise lawful arms in a manner that causes unnecessary suffering - examines the way weapon is used**

# **THE 9 BASIC PRINCIPLES OF THE LOW**

## **MARINES WILL**

- 1. Fight only enemy combatants**
- 2. Not harm enemies who Surrender**
- 3. Not kill or torture Prisoners**
- 4. Collect and care for the wounded, whether friend or foe**

## **MARINES WILL**

- 5. Not Attack Protected Persons or Places**
- 6. Destroy No More Than the Mission Requires**
- 7. Treat all Civilians Humanely**
- 8. Not Steal**
- 9. Prevent and Report Law of War Violations**

# **#1: FIGHT ONLY** **COMBATANTS**

- **Marines fight only enemy combatants**
  - **Combatant is a person engaged in hostilities against the United States or its Coalition Partners during an Armed Conflict**
  - **Example: Enemy Regular Army**
  - **Example: Civilians Directly Participating in Hostilities**
  - **Example: Terrorists**

## **#2: SURRENDERING ENEMY**

- **Marines do not harm enemy soldiers who surrender. Marines disarm them and turn them over to their superiors**
  - **STRESS: Search, Tag, Report, Evacuate, Segregate and Safeguard**
  - **Provide Humane Care & Treatment to All Who Surrender or are Captured**
  - **Show Respect to the Person, their Cultural and Religious Beliefs**
  - **Protect them from Threats or Acts of Violence including Rape, Assault, Theft, Reprisals, Public Humiliation and Curiosity**

# **#3: TORTURE AND KILLING**

- **Marines do not torture or kill enemy prisoners of war or detainees**
  - **Killing and torturing detainees is a crime under both international and domestic law**
  - **United States has duty to prosecute**
  - **Humane treatment is the minimum standard for ALL detained personnel regardless of status**
  - **Only trained interrogators conduct interrogations**

# **#4: ENEMY WOUNDED AND SICK**

- **Marines collect and care for the wounded, whether friend or foe**
  - **Enemy sick or wounded, who cease to fight, will be collected and cared for without regard to race, color, religion, sex or nationality**
  - **Obligation to search for all wounded and sick when commander determines conditions permit**
  - **Only urgent medical reasons authorize priority in the order of treatment (triage)**
  - **Obligation to respect and protect all wounded or sick**

# **#5: PROTECTED PERSONS/PLACES**

- **Marines do not attack medical personnel, facilities, equipment, or chaplains**
  - **Medical personnel and medical auxiliary support engaged in treatment of wounded and sick must not be knowingly attacked or prevented from performing proper functions**
  - **Civilian property, cultural property, fixed medical establishments, medical vehicles and aircraft**
  - **Protective Emblems: Red Cross, Red Crescent, Red Crystal, Red Lion & Sun**



# **#6: DESTROY NO MORE THAN MISSION REQUIRES**

- **Marines destroy no more than the mission requires**
  - **Only target legitimate combatants and military objectives**
    - **Avoid excessive or wanton destruction of property**
  - **Minimize collateral damage**
    - **Protect civilian property**
    - **Protect historic and cultural sites**
    - **The more you destroy in battle, the more we will have to help rebuild in peace**

# **#7: HUMANELY TREAT CIVILIANS**

- **Marines treat all civilians humanely**
  - **Respect for their persons, property, honor, family rights, religious convictions, manners and customs**
  - **No actions causing physical suffering or intimidation**
  - **No physical or moral coercion to obtain information**
  - **No insults and exposure to public curiosity**
  - **No reprisals against person or property**
  - **If mission permits, take actions to protect wounded, sick, and infirm; elderly; expectant mothers and children**

# **#8: DO NOT STEAL**

- **Marines do not steal; they respect private property and possessions**
  - **Civilian Property**
    - **No taking of private property**
    - **When in doubt, ask chain of command**
  - **Enemy military property**
    - **May not be taken, damaged, or destroyed without the approval of the chain of command**
  - **War trophies and souvenirs**
    - **Do not retain without express authorization from your commander**

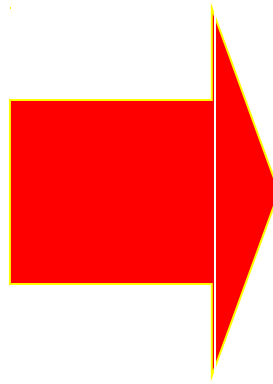
# **#9: PREVENT AND REPORT LOW VIOLATIONS**

- **Marines do their best to prevent violations of the LOW, and report all violations to their superiors**
  - **All reportable incidents are reported promptly, investigated thoroughly, and, where appropriate, remedied by correction action**
  - **A reportable incident is a possible, suspected, or alleged violation of the LOW, for which there is credible information**
  - **LOW violations may be reported to your chain of command, judge advocate, inspector general, or military police**
  - **If you are ordered to commit a criminal act or LOW violation, you are under an obligation to refuse the order**
  - **“I was just following orders” is NOT a defense**

# **RULES OF ENGAGEMENT**

- **Directives:**

- Issued by competent military authority
- Explain when and under what circumstances Marines may use force
- Explain how much force Marines may use in given situations



- **ROE:**

- ROE are an operational issue
- ROE are the Commander's Rules
- ROE support the Commander's intent and operational concept
- Judge Advocates *advise* on ROE; Commanders make the ultimate decisions

# **RULES OF ENGAGEMENT: KEY CONCEPTS**

- **Declared Hostile Forces** - any civilian, paramilitary or military force or terrorist that has been declared hostile by appropriate U.S. authority
- **Lawful Military Objectives** - those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage

# **RULES OF ENGAGEMENT: KEY** **CONCEPTS**

- **Hostile Act - an attack or other use of force against the United States, U.S. forces or other designated persons or property; to include force used to directly preclude or impede the mission and/or duties of U.S. forces**
- **Hostile Intent - threat of imminent use of force against the United States, U.S. forces or other designated persons or property**
- **Positive Identification (PID) - reasonable certainty that the proposed target is a legitimate military target**

# **RULES OF ENGAGEMENT**

- **When to use force :**
  - **Mission Accomplishment**
    - **Declared Hostile Force**
    - **Lawful military objectives**
  - **Self Defense**
    - **Hostile Act**
    - **Hostile Intent**
- **Requirement of Distinction**
- **Positive Identification**

# **DISCUSSION** **SCENARIOS**

# **SCENARIO #1**

- **Charlie Company's AO is heavily infested with enemy guerillas. The company commander orders first platoon to secure a village. No instructions are given on taking POWs. The platoon encounters hostile fire and sustains two casualties. The enemy disappears among the villagers. The platoon commander orders all villagers be brought to central market and then orders his Marines to shoot all adult males because they are likely guerrilla fighters. Several Marines carry out the orders while the rest observe without objection. The platoon commander orders his Marines not to say anything about what happened and informs higher headquarters the ten persons shot were killed during the fighting.**

## **SCENARIO #2**

**• Sergeant Smith has recently been assigned as a guard at an internment facility containing enemy prisoners of war. Within a short period of entering the confinement facility, Sergeant Smith observes the prisoners in the following conditions:**

- Two unguarded prisoners handcuffed to a pipe fixture above their head;**
- Three prisoners escorted naked along a corridor;**
- Marines taking personal pictures of themselves alongside handcuffed prisoners, and**
- A civilian contractor striking a handcuffed prisoner in a room off the main corridor.**

# QUESTIONS